

### REMARKS

The Office Action dated 8 March 2006 has been fully considered by the Applicant.

Attached is a Petition for a One-Month Extension of Time and a check in the amount of \$120 to cover the fee.

Claims 1 and 16 are currently amended. Claims 2-11, 13-15 have been previously presented. Claim 12 has been canceled.

Independent claims 1 and 16 have been amended to more clearly indicate that the control system for the control of the storage means and the storage of data therein and wherein said storage system includes a "first in first out" buffer which include generic commands for both the control system and the control of the storage of the data in the storage means. Applicant believes that currently amended claims 1 and 16 are now patentable over the cited references.

Claims 1, 4-11, 13-16 have been rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 5,995,155 to Schindler et al in view of United States Patent No. 5,740,466 to Geldman et al. in further view of United States Patent No. 5,754,651 to Blatter et al. Reconsideration of the rejection is respectfully requested.

Examiner Vent indicates that the '651 patent to Blatter et al discloses a FIFO that contains commands for information regarding the control unit, as well as commands for control of storage means, the latter being described in the '466 patent to Geldman. However, in the '651 Blatter et al patent the read/write instructions, i.e. commands for control of storage means, are stored separately from the commands for the control system. For instance, in the Blatter '561 patent at Col. 5, lines 47-56, the control unit 65 only determines read and write pointers for sequentially reading or storing packets in the FIFO buffer 60. The Blatter control unit 65 does not include a FIFO buffer for storing

commands in relation to the control system itself to control the way in which the data is retrieved or stored, as in Applicant's disclosure. In the '651 Blatter et al patent, these are instead stored separately in one of the FIFO buffers 60 under control of the system controller 115. Therefore, Applicant sincerely believes that the currently amended claims 1 and 16, along with claims depending therefrom are novel over the cited references and therefore respectfully requests reconsideration of the rejection.

Examiner Vent indicated that it would be obvious too combine the storage of commands in the FIFO relating to (a) the control of storage means according to Geldman and (b) the control system according to Blatter. However, Applicant would like to respectfully point out that a given FIFO according to the prior art is only compatible with and stores one of these types of commands. It can be clearly seen that the prior art shows the different types being stored separately as described above. However, Applicant's invention provides a FIFO in which the commands are generic in form and can thus be recognized to control the read/writes of storage means or relate to the control system, such as implementing a phase change to instigate automated bulk transfer of data.

In summary, the combination of Geldman et al and Schindler et al and Blatter et al, taken together, would not provide the limitations of the present invention. Therefore Applicant sincerely believes that the claims as currently amended are novel over the cited references and respectfully requests reconsideration of the rejection.

It is improper to combine references to achieve the invention under consideration unless there is some incentive or suggestion in the references to do so.

The Court of Appeals for the Federal Circuit has repeatedly held that under Section 103, teachings from various references can be combined only if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F2d 1572, 221 USPQ 929 (CAFC 1984).

Stated another way:

It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps...The references themselves must provide some teaching whereby the applicant's combination would have been obvious. In re Gorman, 18 USPQ2d 1885 (CAFC 1991).

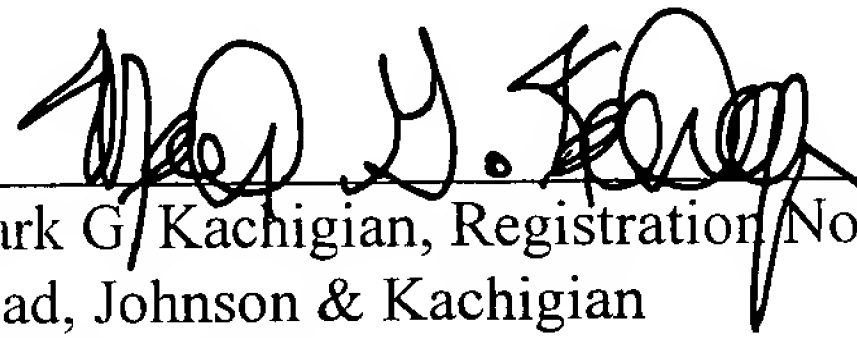
In the present invention, there is no suggestion in the references to combine the teachings of Schinder et al, Geldwan et al and Blatter. The Examiner is required to follow the law as set forth by the Federal Circuit. In summary, the combination of patents to achieve the claims of the present invention is untenable.

Claims 2 and 3 depend from independent claim 1 and are believed to be novel over the cited references as stated herein.

It is believed that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conferences with the Examiner is requested. If any further fees are associated with this action, please charge Deposit Account No. 08-15000.

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Respectfully submitted,



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